

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CRAIG HENRY,)	2:06cv1439
)	Electronic Filing
Plaintiff,)	
)	Judge David Stewart Cercone /
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
HARRY E. WILSON, Superintendent; MR.)	
FRED MAUE, Chief Bureau of Health Care)	
Service; JOAN DELIE; CAROL A. SCIRE,)	
Facility Grievance Coordinator; DR. HERBICK,)	
Medical Doctor; ROBERT TRETINIK, Health)	
Care Administrator; MS. LINDA BRUNSON,)	
R.N.; MS. ELLSWORTH, R.N.; MS. SHARON)	
M. BURKS, Chief Grievance Officer; JOHN)	
DOE; JOHN DOE, Psychiatrist; JOHN DOE,)	
BB-Unit Counselor; JOHN DOE, B-Unit)	
Manager; JANE DOE, Hearing Examiner,)	
)	
Defendants.)	

MEMORANDUM ORDER

An *in forma pauperis* application in the above-captioned prisoner civil rights case was received by the Clerk of Court on October 30, 2006, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (Document No. 33), filed on November 23, 2007, recommended that the Motion to Dismiss filed by Defendant Herbick (Document No. 17) be denied and that the Motion to Dismiss filed by the Commonwealth Defendants Wilson, Maue, Delie, Scire, Tretinik, Brunson, Ellsworth and Burks (Document No. 18) be granted as to Defendants Wilson, Scire, Burks, Brunson and Ellsworth and denied as to

Defendants Maue, Delie, and Tretinik. Plaintiff filed Objections to the Report and Recommendation on December 10, 2007 (Document No. 36). Plaintiff's Objections do not undermine the recommendations made by the Magistrate Judge.

After *de novo* review of the pleadings and the documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 7th January, 2008

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendant Herbick (Document No.17) is DENIED.

IT IS FURTHER ORDERED hat the Motion to Dismiss filed by the Commonwealth Defendants Wilson, Maue, Delie, Scire, Tretinik, Brunson, Ellsworth and Burks (Document No. 18) is **GRANTED** as to Defendants Wilson, Scire, Burks, Brunson and Ellsworth and **DENIED** as to Defendants Maue, Delie, and Tretinik.

IT IS FURTHER ORDERED that the Report and Recommendation (Document No. 33) filed on November 23, 2007, by Magistrate Judge Lenihan, is adopted as the Opinion of the Court.



David Stewart Cercone
United States District Judge

cc: Honorable Lisa Pupo Lenihan
United States Magistrate Judge

Craig Henry, AP-7447
SCI Fayette
P.O. Box 9999
LaBelle, PA 15450-0999

Christian D. Bareford, Esquire
Mariah Passarelli, Esquire
Office of Attorney General
Fifth Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219